

STATE OF VERMONT  
PUBLIC SERVICE BOARD

Docket No. 6741

Investigation Into the Energy Efficiency Charge  
for the Year 2003

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Hearings at  
Montpelier, Vermont  
September 24 & 26, 2002

Order entered: 10/31/2002

PRESENT: Ann Bishop, Hearing Officer

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1. Filed notice of appearance but did not attend hearing.

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2. Did not file notice of appearance and did not attend hearing.

## **I. INTRODUCTION**

The Energy Efficiency Charge ("EEC") is a volumetric charge to customers for the support of energy efficiency programs delivered in multiple service territories. This docket was opened to establish the methodology for calculating the EEC for the year 2003.

In this Proposal for Decision, I recommend that the Public Service Board ("Board") approve, in its entirety, a settlement among the Vermont Department of Public Service ("DPS"), Central Vermont Public Service Corporation ("CVPS"), Citizens Communications Company d/b/a Citizens Energy Services ("Citizens"), Green Mountain Power Corporation ("GMP"), Vermont Electric Cooperative, Inc. ("VEC"), Vermont Marble Power Division of OMYA, Inc. ("Vermont Marble"), and Washington Electric Cooperative, Inc. ("WEC") regarding the methodology for calculating the EEC for the year 2003.<sup>3</sup> In addition, I recommend that the Board apply the same methodology to calculate the EEC in the service territories of the utilities that did not sign the settlement.<sup>4</sup>

If the Board concurs with these recommendations, for customers of all Vermont electric utilities except BED, WEC, and CVPS, the year 2003 EEC would be a uniform mills/kwh rate for all residential customers, a different uniform mills/kwh rate for non-residential customers not on a demand rate, and a uniform mills/kwh rate combined with a uniform cents/kW rate for non-residential customers on a demand rate. For customers of BED and WEC, the EEC would be calculated using the same methodology, but the rates would be different from those paid by customers of other utilities in accordance with the Board's memorandum of August 1, 2002,

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3. The settlement was also signed by International Business Machines Inc. ("IBM"), although IBM is not a party to this docket.

4. Sixteen utilities did not sign the settlement: the City of Burlington Electric Department ("BED"); Rochester Electric Light and Power Company; Barton Village Inc. Electric Department ("Barton"); Village of Enosburg Falls Water & Light Department ("Enosburg Falls"); Town of Hardwick Electric Department ("Hardwick"); Village of Hyde Park Electric Department ("Hyde Park"); Village of Jacksonville Electric Department ("Jacksonville"); Village of Johnson Water & Light Department ("Johnson"); Village of Ludlow Electric Light Department ("Ludlow"); Village of Lyndonville Electric Department ("Lyndonville"); Village of Morrisville Water & Light Department ("Morrisville"); Village of Northfield Electric Department ("Northfield"); Village of Orleans Electric Department ("Orleans"); Town of Readsboro Electric Light Department ("Readsboro"); Town of Stowe Electric Department ("Stowe"); and Swanton Village Inc. Electric Department ("Swanton"). The last fourteen of these utilities are collectively referred to herein as the "14 Municipal Utilities." None of these sixteen utilities opposed the Stipulation at the technical hearing.

described in Section II, below. For customers of CVPS, the EEC would, for a limited period of time, be a percentage of each customer's bill (excluding the customer charge). The percentage would be different for each rate class, and would be designed to raise the same amount of money from the rate class that the rate class would have paid if it were assessed the same uniform rates as customers of most other Vermont electric utilities.<sup>5</sup>

## **II. BACKGROUND AND PROCEDURAL HISTORY**

On August 1, 2002, the Board issued a Memorandum Re: Public Service Board's Decision in re: Report of the Department of Public Service to the Board on Vermont's Energy Efficiency Utility ("Board Memorandum").<sup>6</sup> The Board Memorandum established the amounts to be collected via the EEC in 2003 (\$16,172,252) and stated that the EEC would be uniform throughout the state, except in the service territories of BED and WEC.<sup>7</sup>

This docket was opened for the sole purpose of establishing the methodology for calculating the EEC in 2003. The Order opening this investigation explicitly stated that the decisions described in the Board Memorandum would not be revisited in this docket.<sup>8</sup>

On August 9, 2002, a prehearing conference was held in this docket, followed immediately by a technical workshop. Three additional technical workshops were held on August 21, 2002, August 29, 2002, and September 10, 2002.

On September 12, 2002, a public hearing was held via Vermont Interactive Television in Brattleboro, Colchester, Lyndonville, Randolph Center, and Rutland. At the public hearing, the DPS presented a proposed calculation methodology that would have resulted in non-residential customers paying a larger share of the total amount collected via the EEC (and residential customers paying a smaller share). VEC presented an alternative proposed calculation

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5. See, finding 15, below, for more information about the time period for which the EEC would be a percentage of each CVPS customer's bill.

6. The Board Memorandum was attached to the Order opening this investigation.

7. The methodology used to calculate the EEC in previous years (a percent charge on each customer's electric bill, with the percent charge the same for all classes in a given service territory, but different for different service territories) did not result in a uniform statewide charge.

8. Order of 8/1/02 at 2.

methodology.<sup>9</sup> Four customers spoke: three business customers who opposed any change in methodology which would result in increasing the amount of the EEC that they would have to pay, and one residential customer who supported the use of a methodology that assessed the EEC on a kwh basis rather than on a percent-of-bill basis.

The Board also received numerous letters and e-mail messages from customers, most of which expressed concern with a proposed change in methodology which would result in non-residential customers paying a larger share of the total amount collected via the EEC.<sup>10</sup> Many of these letters also expressed concern with the size of the increase in the amount to be collected via the EEC from 2002 to 2003, even though the total amount to be collected via the EEC was not an issue in this docket. A few letters addressed other issues associated with the methodology used to calculate the EEC including, among others, establishing EEC rates with energy and demand components for customers served under demand rates, not imposing a percent surcharge on the customer charge portion of the bill, and imposing a flat surcharge per month rather than a surcharge that is a percent of the bill.

On September 25, 2002, a settlement was filed by the DPS. The settlement consists of: (1) a Stipulation Concerning the Energy Efficiency Charge ("Stipulation") which was signed by the DPS, CVPS, Citizens, GMP, VEC, Vermont Marble, WEC, and IBM; (2) a bilateral agreement between the DPS and CVPS regarding generation displacement contracts; (3) a bilateral agreement between the DPS and CVPS regarding the methodology for billing the EEC for the year 2003; and (4) one bilateral agreement between the DPS and GMP.<sup>11</sup>

On September 26, 2002, a technical hearing was held on the settlement agreement. No party opposed the settlement, although the 14 Municipal Utilities stated they would not sign the settlement because, among other concerns, they did not believe a utility should be required to

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9. Neither of the calculation methodologies described at the public hearing is the same as the calculation methodology included in the settlement. *See*, footnote 29, below, for additional information on the change in the proposed calculation methodology.

10. All of the public comments received in this Docket that expressed concern about the portion of EEC funds to be collected from non-residential vs. residential customers referred to the calculation methodology described by the DPS at the public hearing, not to the calculation methodology included in the settlement.

11. At the technical hearing, the Stipulation was admitted into evidence as exhibit DPS-1, the CVPS-DPS bilateral agreements were admitted into evidence as exhibits DPS-2 and DPS-3, respectively, and the GMP-DPS bilateral agreement was admitted into evidence as exhibit DPS-4.

agree to Paragraph 3 of the Stipulation<sup>12</sup> in order to resolve the issues in this proceeding.<sup>13</sup> BED stated that it supported the Stipulation, but could not sign it until it was authorized to do so by its electric commission and the Burlington City Council. This process was not expected to be complete until October 21, 2002.<sup>14</sup>

On October 9, 10, and 11, 2002, the following entities filed documents responding to questions asked by the Hearing Officer at the technical hearing and/or providing additional information pursuant to the terms of the Stipulation and the CVPS-DPS bilateral agreement:

- October 9, 2002 – BED, CVPS,<sup>15</sup> the 14 Municipal Utilities, Vermont Marble, and WEC;
- October 10, 2002 – CVPS (2 filings, one addressing the Hearing Officer's question regarding whether CVPS's billing system can calculate the EEC to the number of decimal points provided for in the Stipulation, the second providing CVPS's calculation of its uncollectible amounts that are to be recovered via the year 2003 EEC); and
- October 11, 2002 – GMP, EEU Contract Administrator.<sup>16</sup>

These filings will be admitted into evidence as exhibits BED-1, CVPS-1, 14 Municipal Utilities-1, Vermont Marble-1, WEC-2, CVPS-2 (decimal point filing), CVPS-3 (uncollectible amounts filing), GMP-1, and Board-1, respectively, unless a party objects to their admission in its comments on this Proposal for Decision. If a party objects, the Board will decide the admissibility of the filings.

On October 16, 2002, the DPS filed a letter responding to the October 9-11, 2002, filings, and providing proposed EEC rates for 2003 that included the adjustments called for by Paragraphs 11 and 12 of the Stipulation for all utility service territories except WEC's. This filing will be admitted into evidence as DPS-5, unless a party objects to its admission in its

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12. See, finding 37, below, for the text of Paragraph 3 of the Stipulation.

13. Letter from Trevor R. Lewis, Esq., Primmer & Piper, on behalf of the 14 Municipal Utilities to Susan M. Hudson, Clerk, Public Service Board, dated September 25, 2002.

14. Tr. 9/26/02 at 27-29 (Buckley).

15. This filing was CVPS's Initial Proposed Rate Class Year 2003 EEC Surcharge Percentages which was required by exhibit DPS-3.

16. The Board asked the EEU Contract Administrator to work with the EEU Fiscal Agent to determine the Year 2001 and 2002 under/overcollection amounts that would be recovered via the year 2003 EEC if the Board accepts the settlement agreement. Because the Hearing Officer asked the EEU Contract Administrator to provide this information, this filing will be marked Board-1.

comments on this Proposal for Decision. If a party objects, the Board will decide the admissibility of the filing.

On October 17, 2002, CVPS filed its Conformed Rate Class Year 2003 Surcharge Percentages. This filing will be admitted into evidence as CVPS-4, unless a party objects to its admission in its comments on this Proposal for Decision. If a party objects, the Board will decide the admissibility of the filing.

On October 18, 2002, VEC filed a letter responding to questions asked by the Hearing Officer at the technical hearing and/or providing additional information pursuant to the terms of the Stipulation and the CVPS-DPS bilateral agreement. This filing will be admitted into evidence as VEC-1, unless a party objects to its admission in its comments on this Proposal for Decision. If a party objects, the Board will decide the admissibility of the filing.

Based on the evidence in this Docket, I hereby report the following findings and conclusions to the Board in accordance with the provisions of 30 V.S.A. § 8.

### **III. FINDINGS**

1. During calendar year 2003, the EEC should be designed to collect the EEU budget for the year (\$16,172,252) and the additional amount of the gross revenue tax (30 V.S.A. § 22) and the fuel gross receipts or "weatherization" tax (33 V.S.A. § 2503) applicable to the EEC, as adjusted for the amounts described in Paragraphs 11 and 12 of the Stipulation. Exh. DPS-1 at ¶ 2; findings 2–3.

2. The Year 2003 EEC should be adjusted to address over- or under-collection of the year 2002 EEC and the amounts of the year 2002 EEC which distribution utilities were unable to collect. These adjustments should be calculated on a statewide basis except for the service territories of BED and WEC. Exh. DPS-1 at ¶ 11.

3. As required by Paragraph 8 of the Docket 6564 EEC Stipulation,<sup>17</sup> the Year 2003 EEC should be adjusted based on a comparison of the estimated revenues used in making adjustments to the year 2002 EEC for over- or under-collection of the year 2001 EEC and year 2001 EEC uncollectibles with the actual amounts for the corresponding period on which the

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17. The Docket 6564 EEC Stipulation was approved by the Board in its 11/26/01 Order in that docket.

estimates were based. These adjustments should be calculated on a statewide basis except for the service territories of BED and WEC. Exh. DPS-1 at ¶ 12.

4. The EEC should not be designed to raise, and should not include, the sales and use tax (32 V.S.A. § 9971(2)). The sales and use tax should be assessed, collected and remitted by each distribution utility based on the entirety of all charges included on the bill which are subject to the sales and use tax. To the extent applicable to the EEC, each distribution utility should bill and remit the sales tax on the EEC in the same manner as it otherwise bills and remits a sales tax. Exh. DPS-1 at ¶ 18.

Proposed Calculation Methodology for Most Distribution Utility Service Territories

5. During calendar year 2003, the EEC should be calculated for all distribution utility service territories except those of BED, WEC, and CVPS using the methodology described in Attachment A to the Stipulation, and adjusted for the amounts described in Paragraphs 11 and 12 of the Stipulation. Exh. DPS-1 at ¶¶ 4 and 5, and Attachment A.

6. Using the methodology described in Attachment A to the Stipulation, and making the adjustments required by Paragraphs 11 and 12 of the Stipulation, results in the following EEC rates, for all distribution utility service territories except those of BED, WEC, and CVPS:

- a. For residential customers, the EEC should be 3.688 mills/kWh.
- b. For non-residential customers who are not demand billed, the EEC should be 2.951 mills/kWh.
- c. For non-residential customers who are demand billed, the EEC will be 1.887 mills/kWh and \$0.4310/kW per month. The kW month charge will be assessed on billed peak kW only.
- d. For unmetered street and security lighting customers, the EEC should be equal to or the equivalent of 2.951 mills/kWh times the nominal size of the light times 360 hours per month.

Exh. DPS-5 at 2 and Attachment A Exhibit 1-Rev.

7. The billing systems of Barton, Enosburg Falls, Hardwick, Hyde Park, Jacksonville, Ludlow, Morrisville, Northfield, and Stowe cannot accommodate the number of decimal places for the energy component shown in finding 6, above. They should calculate the energy component of the EEC using as many decimal places as their billing systems can use. Any



rounding should be done by rounding numbers 1 through 4 down, and 5 through 9 up. Exh. 14 Municipal Utilities-1 at 5; exh. DPS-5 at 5.

8. The calculation methodology described in the Stipulation would result in residential customers paying approximately 44 percent of the total amount collected via the EEC, while non-residential customers would pay approximately 56 percent of the total EEC charges. This is the same allocation as that in effect for the year 2002 EEC. Tr. 9/26/02 at 38 (Welch).

#### Proposed Calculation Methodology for BED's Service Territory

9. During calendar year 2003, the EEC should be calculated for BED's service territory using the methodology described in Attachment A to the Stipulation, except that the basis shall be specific to BED's service territory. Since no EEC has previously been assessed on BED's customers, no adjustments under Paragraphs 11 and 12 of the Stipulation are necessary to the year 2003 EEC in BED's service territory. Exh. DPS-1 at ¶ 6.

10. Using the methodology described in Attachment A to the Stipulation results in the following EEC rates for BED's service territory:

- a. For residential customers, the EEC should be 2.598 mills/kWh.
- b. For non-residential customers who are not demand billed, the EEC should be 2.694 mills/kwh.
- c. For non-residential customers who are demand billed, the EEC should be 1.806 mills/kWh and \$0.333147/kW per month, with the kW month charge assessed on billed peak kW only.
- d. For unmetered street and security lighting customers, the EEC should be 2.694 mills/kWh times the nominal size of the light times 354 hours per month.

Exh. DPS-1 at ¶ 6; exh. BED-1 at 1, 3; exh. DPS-5 at 3.

#### Proposed Calculation Methodology for WEC's Service Territory

11. During calendar year 2003, the EEC should be calculated for WEC's service territory using the methodology described in Attachment A to the Stipulation, and adjusted for the amounts described in Paragraphs 11 and 12 of the Stipulation, except that the basis for the

calculation and the adjustments shall be specific to WEC's service territory. Exh. DPS-1 at ¶¶ 7, 11, and 12.

12. Using the methodology described in Attachment A to the Stipulation, and *not* making the adjustments required by Paragraphs 11 and 12 of the Stipulation, results in the following EEC rates, for WEC's service territory:

- a. For residential customers, the EEC should be 2.424 mills/kWh.
- b. For non-residential customers who are not demand billed, the EEC should be 2.424 mills/kWh.
- c. For non-residential customers who are demand billed, the EEC should be 1.315 mills/kWh and \$0.2833/kW per month, with the kW month charge assessed on billed peak kW only.
- d. For unmetered street and security lighting customers, the EEC should be \$0.087273, \$0.218182, and \$0.349091 per month for 100, 250, and 400 watt units, respectively.

Exh. DPS-1 at ¶ 7; exh. WEC-2 at 1, 3-4; exh. DPS-5 at 3.

13. The year 2003 EEC rates shown in finding 12, above, should be adjusted in accordance with Paragraphs 11 and 12 of the Stipulation. The reconciliation of estimated and actual 2001 EEC over- or under-collections and year 2001 EEC uncollectibles pursuant to Paragraph 12 of the Stipulation, showed that there was a \$1,512 under-collection in WEC's service territory in 2002. Therefore, the total amount of the EEC to be collected in WEC's service territory in 2003 should be adjusted upward by \$1,512. The amount of the adjustment that should be made pursuant to Paragraph 11 of the Stipulation is not yet known, but will be determined after WEC makes a compliance filing in this Docket. Exh. DPS-1 at ¶¶ 11 and 12; exh. WEC-2 at 1, 7; exh. DPS-5 at 3-4.

#### Proposed Calculation Methodology for CVPS's Service Territory

14. Because of the nature and characteristics of CVPS's billing system, the calculation methodology described in the Stipulation would impose an extraordinary expense on CVPS and would probably take more time for CVPS to modify its billing system to comply with this methodology than is available between the date the Stipulation was signed and the date when the 2003 EEC is to be effected on customer bills. Exh. DPS-3 at 1; tr. 9/26/02 at 68-70 (Scott).

15. For customers in CVPS's service territory, the EEC should be calculated using an alternative methodology up and until the end of the third full month following completion by the Board of a rulemaking to govern the EEC for years 2004 and beyond, after which CVPS will calculate the EEC in accordance with finding 5, above, unless, as a result of a rule governing the EEC issued by the Board, the methodology for calculating the EEC in 2004 and beyond relies upon and utilizes rate elements that are materially different from those described in finding 5, above, in which case CVPS should continue to use the alternative calculation methodology until the completion of its January 2004 bill cycles. Exh. DPS-3 at 1-2.

16. The specific alternative calculation methodology to be used in CVPS's service territory should be a percent surcharge on customer bills, specific to each CVPS rate class and not applied to the customer charge. The percent surcharge should be derived by determining the rate class-specific EEC revenue requirement using the methodology for determining the EEC described in Attachment A of the Stipulation, and adjusted for the amounts described in Paragraphs 11 and 12 of the Stipulation, then dividing this revenue requirement by the CVPS rate class-specific revenues as used by the DPS in the calculation of the EEC charges net of CVPS customer charge revenues. Exh. DPS-3 at 2.

17. The alternative calculation methodology to be used in CVPS's service territory will raise an equivalent aggregate amount of money in the CVPS service territory and by CVPS rate class as would be raised if the EEC were implemented using the calculation methodology described in Paragraph 4 of the Stipulation. Exh. DPS-3 at 2.

18. The implementation of the alternative calculation methodology in CVPS's service territory will have substantially the same impact on individual CVPS customers as would the implementation of the calculation methodology described in Paragraph 4 of the Stipulation. Exh. DPS-3 at 2.

19. Applying the alternative calculation methodology in CVPS's service territory will result in the following rates:

CVPS Rate Class	EEC Surcharge Percentage
<u>Residential</u>	
Rates 1 & 8	3.14%

Rate 9	3.63%
Rate 11	3.85%
<u>General Service</u>	
Rate 2	2.83%
Rate 10	2.99%
<u>Primary Service</u>	
Rate 4	3.28%
Rate 12	4.29%
<u>Transmission Voltage Service</u>	
Rate 5	4.05%
<u>Off Peak Service</u>	
Rate 3	5.62%
Rate 13	6.29%
Rate 14	5.62%
Rate 15	7.59%
<u>Lighting</u>	
Rate 6	0.97%
Rate 7	0.97%

Exh. CVPS-4 at 2-3.

20. CVPS has agreed to include in the bill insert required by Paragraph 17b of the Stipulation an explanation of the reasons why it is implementing the year 2003 EEC as a percent surcharge instead of the methodology used by other distribution utilities under Paragraph 4 of the Stipulation. Exh. CVPS-1 at 3.

21. During the bill cycles for the month immediately preceding the month in which CVPS implements the EEC in accordance with the method described in Paragraph 4 of the Stipulation, CVPS will include a new bill insert providing customers with notice and explanation of this second change in the methodology used to calculate the EEC. Exh. CVPS-1 at 3.

22. CVPS has agreed to provide the DPS with the information the DPS needs to respond to customer inquiries concerning implementation of the year 2003 in CVPS's service territory. Exh. CVPS-1 at 3.

Application of the Year 2003 EEC

23. All retail customers' electric bills should be subject to, and should be used in the calculation of, the EEC, except customers set out in the GMP-DPS bilateral agreement and the CVPS-DPS bilateral agreement relating to generation displacement contracts. Exh. DPS-1 at ¶ 8; exh. DPS-4 at 1-2; exh. DPS-2 at 1-2.

24. Payment of the EEC by customers of a distribution utility is a requirement for service and is subject to applicable law and Board rules, including but not limited to those rules governing deposit and disconnection for non-payment. Exh. DPS-1 at ¶ 20.

25. The EEC should be effected, on bills rendered on or after February 1, 2003, with no proration. Exh. DPS-1 at ¶ 9.

26. To the extent a rate schedule is necessary for the EEC, the Stipulation should serve as that schedule for the year 2003. Exh. DPS-1 at ¶ 10.

27. The Stipulation provides that on or before February 20, 2003, each distribution utility seeking reimbursement for uncollectible amounts related to the year 2002 EEC should submit an invoice to the Contract Administrator setting forth the amounts calculated in accordance with Paragraph 11 of the Stipulation. On or before March 1, 2003, the Fiscal Agent should pay each distribution utility submitting such an invoice the total EEC uncollectible amount for the distribution utility's territory in 2002. Such payments by the Fiscal Agent should be subject to the "Guidelines for Disbursements from the Energy Efficiency Fund" adopted by the Board. Exh. DPS-1 at ¶ 11c.

28. Each distribution utility should send to the Fiscal Agent the total amount of the EEC billed to customers no later than 23 days after the end of the billing month. Exh. DPS-1 at ¶ 19.

29. No later than November 30, 2002, the Board should publish a newspaper notice, at the expense of the EEC, stating the amount of the EEC for 2003 and such other matters as the Board may deem appropriate. Exh. DPS-1 at ¶ 17a.

30. Each distribution utility should provide notice of the year 2003 EEC to customers in all of its December 2002 billing cycles through a bill insert or newsletter, in such form as the Clerk of the Board approves. If a distribution utility uses postcard or "printed through the envelope" billing and therefore is unable to provide a bill insert or newsletter, that distribution utility should provide notice of the year 2003 EEC to its customers in such form as the Clerk of the Board approves. Exh. DPS-1 at ¶ 17b.

#### Uncommitted Funds

31. The Stipulation defines Uncommitted Funds as:

"the amount raised by the EEC which, as of a given date, exceeds the amount which the EEU has spent plus the amount which it has not spent but is obligated to pay. The term excludes amounts raised by the EEC which are, as of that given date, encumbered under the Customer Credit Program or are necessary to pay obligations relating to DPS evaluation activities, the Contract Administrator, and the Fiscal Agent."

Exh. DPS-1 at ¶ 1q.

32. The Stipulation provides that the amount of Uncommitted Funds as of December 31, 2002, should be determined no later than June 30, 2003. The Stipulation also provides that if the amount of Uncommitted Funds exceeds five percent of the authorized Core Program Budget for the year 2002, such amount should be applied as a credit against the year 2004 EEC; if the amount of Uncommitted Funds is less than five percent of the authorized Core Program Budget for the year 2002, the Board should determine the disposition of the amount. DPS-1 at ¶ 13.

33. The Stipulation provides that the date for the subsequent determination of Uncommitted Funds will be as of December 31, 2005, and the determination should be made no later than June 30, 2006. The Stipulation also provides that if the amount of Uncommitted Funds exceeds five percent of the authorized Core Program Budget for the year 2005, such amount should be applied as a credit against the year 2004 EEC; if the amount of Uncommitted Funds is less than five percent of the authorized Core Program Budget for the year 2005, the Board should determine the disposition of the amount. DPS-1 at ¶ 14.

Miscellaneous

34. The Stipulation provides that the September 1 filing date for the Energy Efficiency Utility's request for re-allocations of funds between and among programs included in Paragraph 19 of the Memorandum of Understanding approved by the Board in Docket 5980 should be modified to November 1.<sup>18</sup> DPS-1 at ¶ 15.

35. The Stipulation provides that the Board may, in its contract with the EEU, include a provision under which the requirement in Paragraph 19 of the Memorandum of Understanding approved by the Board in Docket 5980 (that the EEU's filing address the issue of "whether any anticipated unspent budget amount should be retained in a contingency fund or applied as a credit to the next year's system benefits charge") is triggered only if the unspent budget amount during 2003 or 2004 exceeds five percent of the Core Program Budget for that year. DPS-1 at ¶ 15.

36. Interest income accrued in or credited to the accounts of the Energy Efficiency Fund should be paid toward the DPS's costs in performing evaluation and preparing reports concerning the EEU. To the extent that the DPS's receipt of such moneys requires authorization by, or the approval of, another governmental entity, this provision should be subject to such authorization or approval. DPS-1 at ¶ 16.

37. Paragraph 3 of the Stipulation provides that:

"The Parties disagree on whether the Core Program Budget amount stated in the preceding paragraph complies with the second sentence of paragraph 46 of the MOU [Memorandum of Understanding in Docket 5980]. To the extent that any Party which signs this Stipulation believes that such amount does not comply with that sentence, that Party hereby waives application of paragraph 46 of the MOU to the Core Program Budget amount for 2003 and the resulting EEC for 2003 calculated in accordance with paragraphs 4, 6, and 7 below."<sup>19</sup>

Exh. DPS-1 at ¶ 3.

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18. The relevant portion of Paragraph 19 of the Docket 5980 Memorandum of Understanding states "Annually on or before September 1, commencing in the year 2000, the [Energy Efficiency Utility] shall file with the Board with a copy to the [DPS] and each [distribution utility], the [Energy Efficiency Utility's] request for re-allocations of funds between and among programs. Such request shall also address the issue of whether any anticipated unspent budget amount should be retained in a contingency fund or applied as a credit to the next year's system benefits charge or [distribution utility] assessment, whichever is applicable . . ."

19. See footnote 56, below, for the text of the second sentence of Paragraph 46 of the Docket 5980 Memorandum of Understanding.

#### **IV. DISCUSSION**

##### **Proposed Calculation Methodology**

The primary purpose of this Docket is to determine the methodology for calculating the EEC for the year 2003, given the Board's decision in the Board Memorandum to move to a uniform statewide charge (except for BED and WEC). The only calculation methodology in evidence in this docket is embodied in the Stipulation and the three associated bilateral agreements. Therefore, the issue before me is whether this proposed methodology is appropriate.

The proposed calculation methodology is described in Attachment A to the Stipulation, and Paragraphs 4, 11, and 12 of the Stipulation. It includes the following steps:

- (1) Allocate the EEU budget revenue requirement between the residential and non-residential classes based on the percentage of annual electric revenue contributed by each customer class;
- (2) Calculate a uniform volumetric rate for each customer class based on 2001 statewide energy sales, adjusted for WEC and BED sales and for non-EEU sales under various special contracts;
- (3) Split the volumetric rate for demand billed non-residential customers into demand and energy components using the ratio of revenue collected for each component, employing statewide revenue collections for each billing component (the demand component is based on the peak period billed demand and total revenue for all peak and off peak kW sales);
- (4) Divide the calculated rates by .99 to reflect an adjustment for the gross revenue and weatherization taxes associated with the amounts collected via the EEC; and
- (5) Adjust the results of the above calculations to address (a) over- or under-collection of the year 2002 EEC, (b) amounts of the year 2002 EEC which a distribution utility was unable to collect, and (c) a comparison of estimated revenues used in making adjustments to the year 2002 EEC for over- or under-collection of the year 2001 EEC and year 2001 EEC uncollectibles, with actual amounts for the corresponding period on which the estimates were based.<sup>20</sup>

Under the terms of the settlement, this methodology would be used to calculate the year 2003 EEC for all utilities, except for WEC, BED, and CVPS. For WEC, the same calculation methodology would be used, except that all steps would be performed on a WEC-specific basis, instead of on a statewide basis. For BED, the same calculation methodology would be used,

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20. Exh. DPS-1 at ¶¶ 4, 11, 12, and Attachment A.



except that steps one through four would be performed on a BED-specific basis, instead of on a statewide basis, and step five would not be performed because BED did not have an EEC in previous years. For CVPS, all five steps of the statewide methodology would be used to determine the year 2003 EEC rates, but then the results would be converted to a percent of bill charge that would be specific to each rate class.<sup>21</sup>

Several issues related to determining an appropriate methodology were identified during this docket's technical workshops and through the public input process. These issues included fairness to low-usage customers, fairness to customers with the same usage served by different distribution utilities, fairness to customers served under a demand rate, the general impacts on customers of any changes to the methodology, and cost and timing issues associated with modifying utility billing systems to accommodate changes to the methodology. In order to determine whether the methodology embodied in the Stipulation and associated bilateral agreements is appropriate, I examined how each of these issues was affected by the proposed methodology.

First, I considered the issue of fairness to low-usage customers. The current methodology for calculating the EEC is a percent of a customer's total bill. However, the energy efficiency services funded by the EEC would allow a customer to reduce his/her usage, but not his/her customer charge, which is a fixed amount. The proposed methodology is directly related to each customer's kwh and, where applicable, kw usage. In addition, the percent charge that CVPS would be allowed to use under the CVPS-DPS second bilateral agreement would not be applied to the customer charge.<sup>22</sup> Therefore, I conclude that the proposed methodology is fair to low-usage customers.

Second, I considered the issue of fairness to customers with the same usage served by different distribution utilities. Under the current methodology for calculating the EEC, customers with the same usage who are served by different distribution utilities pay different EEC amounts since the EEC is calculated using a percent of bill that varies from service territory to service territory. However, the energy efficiency services funded by the EEC are the same

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21. Exh. DPS-1 at ¶¶ 4, 6, 7, 11, and 12; exh. DPS-3 at 2.

22. Exh. DPS-3 at 2.

throughout the state, and customers with the same usage have the same ability to receive (and benefit from) these services regardless of which distribution utility serves them. The proposed methodology is designed so that all customers with the same usage (except for those in BED's and WEC's service territories<sup>23</sup>) pay the same EEC amount.<sup>24</sup> Therefore, I conclude that the proposed methodology is fair to customers with the same usage served by different distribution utilities.

Third, I considered the issue of fairness to customers served under a demand rate. Under the current methodology for calculating the EEC, it does not matter whether a customer is served under a demand rate or not since the charge is applied to the customer's total bill. However, because customers served under demand rates have different load factors, two customers with the same kwh usage could have significantly different total bills as a result of different demand (or kw) charges. In addition, the structure of demand rates varies among distribution utilities so that some customers are billed only for peak kw, while others are billed for both peak and off-peak kw. The proposed methodology addresses both these issues by splitting the non-residential kwh charge into a demand and energy component, and by assessing the demand component of the EEC only on billed peak kw sales.<sup>25</sup> These elements of the proposed methodology result in customers served under a demand rate who have similar kwh and kw characteristics paying the same EEC amount. In addition, these elements remove the possibility that a customer served under a demand rate that bills for both peak and off-peak kw would pay a larger EEC amount than a customer with the same characteristics who is served under a demand rate that bills only for peak kw. Therefore, I conclude that the proposed methodology is fair to customers served under a demand rate.

Fourth, I considered the general impacts on customers of changes from the methodology used for the 2002 EEC to the proposed methodology. This issue is complicated by the fact that

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23. The Board has previously determined that customers in BED's and WEC's service territories should pay a rate different from the uniform statewide rate because of special circumstances unique to those utilities. *See* the Board Memorandum at 7-9 for additional information about those special circumstances and an explanation of the Board's decision.

24. Tr. 9/26/02 at 16 (Welch).

25. Tr. 9/26/02 at 19 (Lamont).

the total amount to be collected by the 2003 EEC is larger than the total amount to be collected by the 2002 EEC. In other words, even if the EEC calculation methodology was not changed, the amount paid by customers would increase.<sup>26</sup> No evidence was presented regarding the portion of the impact on customers that was due to the increase in the total amount to be collected by the 2003 EEC versus the proposed change in calculation methodology. Nevertheless, the record is clear that the impact on individual customers will vary depending on what service territory they are located in (since the 2002 EEC charge varies by utility service territory). For example, the average residential customer with 500 kWh consumption per month currently pays an EEC of between \$1.13 and \$1.89 per month, depending on which distribution utility provides him/her with service. Under the proposed methodology, this same average residential customer would pay an EEC of \$1.81 per month, irrespective of which distribution utility provides him/her with service.<sup>27</sup> As for the impact of the proposed calculation methodology on customer classes, it provides for the same portion of EEC funds to be collected from residential versus non-residential customers in 2003 as has been in the case in 2002.<sup>28</sup> Therefore, I conclude that the proposed calculation methodology's general impacts on customers are acceptable.

Finally, I considered cost and timing issues associated with modifying utility billing systems to accommodate changes in the calculation methodology. While several parties expressed concerns regarding these issues in the early, informal, stages of this proceeding, CVPS was the only party who presented evidence on the topic. CVPS witness Scott testified that the modifications to CVPS's utility billing systems to accommodate the calculation methodology embodied in the Stipulation would cost somewhere between \$60,000 and \$300,000, and that

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26. Tr. 9/26/02 at 35 (Reeve).

27. Tr. 9/26/02 at 33-34 (Welch).

28. See finding 8, above. It should be noted that the calculation methodology embodied in the Stipulation and associated bilateral agreements is different than that described by the DPS at the public hearing in this docket. That proposal would have significantly increased the portion of EEC funds collected from non-residential customers (and decreased the portion of EEC funds collected from residential customers). All of the public comments received in this Docket that expressed concern about the portion of EEC funds to be collected from non-residential vs. residential customers referred to this earlier proposed methodology. According to DPS witness Welch, after receiving comments, the DPS changed its proposed methodology, and the impact on non-residential customers of the methodology included in the Stipulation is "probably significantly lower" than it was under the DPS's initial proposal. Tr. 9/26/02 at 36 (Welch).

CVPS was not sure it could complete the changes in time to implement the new methodology for bills rendered beginning February 1, 2003. In addition, CVPS was concerned about spending considerable time and money to change its billing system to accommodate the calculation methodology in the Stipulation, only to be required to change it again as a result of the rulemaking proceeding which the Board has announced it will open to determine the methodology for the years 2004 and beyond.<sup>29</sup> The CVPS-DPS bilateral agreement concerning the methodology for billing the energy efficiency charge in the year 2003 (exh. DPS-3) provides that CVPS could use a different calculation methodology (one that would need considerably less time and money to implement) on a temporary basis, until either the end of the third full month following completion of the rulemaking to govern the EEC for the years 2004 and beyond or, if the rulemaking results in a methodology for calculating the EEC in 2004 and beyond that relies upon and utilizes rate elements that are materially different from those described in Paragraph 4 of the Stipulation, until the completion of CVPS's January 2004 billing cycles.<sup>30</sup> I find this to be a reasonable approach given CVPS's particular circumstances,<sup>31</sup> and therefore conclude that the proposed calculation methodology embodied in the Stipulation and the associated bilateral agreements does not impose unduly burdensome requirements on distribution utilities with respect to modifying their billing systems.

Another issue related to the capabilities of utility billing systems is the number of decimal places that billing systems can accommodate for the EEC. As stated in finding 7, above, nine distribution utilities' billing systems are unable to accommodate the number of decimal places specified in the EEC rates shown in exh. DPS-5. I find that it is appropriate for those utilities to

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29. Tr. 9/26/02 at 68-70 (Scott).

30. DPS-3 at 2.

31. I note that there is likely to be some customer confusion because the EEC for CVPS's customers will be calculated and expressed differently than for customers of all other Vermont utilities (as a percent surcharge, rather than a per kwh or per kw charge). However, CVPS has committed to taking certain steps to minimize this confusion, such as explaining the reasons for the differences in the bill insert to its customers and providing the DPS with information to answer any questions it might receive on this topic. (See, findings 20 through 22, above.) The DPS is concerned about the possibility of customer confusion, but has committed to working with CVPS to develop as clear an explanation for the differences as possible. Tr. 9/26/02 at 66-67 (Welch).

I am pleased that CVPS has recognized the risk of customer confusion and has agreed to work with the DPS to minimize it. Overall, I find that the potential for customer confusion does not outweigh the benefits of the alternative calculation methodology given CVPS's particular circumstances.

calculate the EEC using as many decimal places as their billing systems can accommodate, and to round the EEC when necessary, using standard rounding techniques (numbers 1 through 4 are rounded down, 5 through 9 are rounded up), and recommend that the Board approve this practice.

In sum, I find that the proposed calculation methodology embodied in the Stipulation and the associated bilateral agreements is appropriate to use for the year 2003 EEC, and recommend that the Board approve it. There are, however, additional issues regarding the proposed calculation methodology that are specific to BED, WEC, and CVPS, which I will examine in the following sections.

#### Proposed Calculation Methodology for BED

The Board has already determined, in the Board Memorandum, that customers of BED should pay an EEC rate different than the statewide one, and that the rate for BED's customers should be set at the amount necessary to collect the amount of money BED expects to spend on implementing the energy efficiency services and initiatives offered by the EEU, plus BED's customers' share of other EEU expenses (such as Emerging Market initiative costs, evaluation costs, fiscal agent and contract administrator costs, etc.).<sup>32</sup> However, the Board has not yet made a final determination regarding what that amount is.<sup>33</sup> In this Docket, BED and the DPS have agreed that BED's total program costs (which include the costs for all the items listed in the Board Memorandum) in the year 2003 should be \$873,744.<sup>34</sup> BED then used this figure in its calculation of the EEC for the year 2003, pursuant to Paragraph 6 of the Stipulation.<sup>35</sup>

In this Proposal for Decision, I recommend that the Board adopt the methodology for calculating the EEC in BED's service territory and the EEC rates for BED customers that are set out in finding 10, above, with the condition that, if the Board determines (in the separate process now underway) that BED's total program costs for 2003 should be a figure other than that agreed

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32. Board Memorandum at 7.

33. BED's actual budget amounts, and other issues associated with BED's implementation of core market services and initiatives in its service territory, are under consideration by the Board in a separate process.

34. Exh. BED-1 at 1 and 5; exh. DPS-5 at 3.

35. Exh. BED-1 at 3.

to by the DPS and BED in this Docket, the EEC rates will be recalculated using the methodology included in the Stipulation and this revised budget figure. In other words, I recommend that the Board make a final determination regarding the methodology to be used to calculate the year 2003 EEC for BED's customers in this Order, but state that the rates themselves (the result of using the methodology) will be recalculated if the Board approves a budget amount for BED's 2003 total program costs different than that used by BED in its calculation in this proceeding.

BED has also proposed using a slightly different methodology for security and streetlights than that included in Paragraph 4d of the Stipulation. Specifically, BED proposes to use 354 hours, rather than 360 hours, in the calculation so that the EEC will be billed consistent with the manner in which other charges are billed to BED's street and security lighting customers.<sup>36</sup> The DPS does not object to this proposal.<sup>37</sup> I find BED's proposal to be reasonable and recommend that the Board approve it.

#### Proposed Calculation Methodology for WEC

The Board has already determined, in the Board Memorandum, that customers of WEC should pay an EEC rate different than the statewide one, and that the rate for WEC's customers for the year 2003 should be equivalent to 2.4 mills/kWh, but that the methodology of the EEC would be determined in this Docket.<sup>38</sup> Paragraph 7 of the Stipulation in this Docket describes the methodology to be used to calculate the EEC for WEC's customers. Exhibit WEC-2 includes WEC's calculation of the EEC, using this methodology. The DPS agrees with most of the elements of WEC's filing, including the rates shown on page 3 of exh. WEC-2, the rates for security lights shown on page 1 of exh. WEC-2, the reconciliation of the estimated undercollection in WEC's service territory for 2001, and the estimated undercollection for 2002.<sup>39</sup>

However, the DPS disagrees with the calculation of 2002 EEC uncollectibles included in WEC's filing. Specifically, the DPS argues that (1) WEC should have used actual 2002

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36. Exh. BED-1 at 1.

37. Exh. DPS-5 at 4.

38. Board Memorandum at 8-9.

39. Exh. DPS-5 at 3.

uncollectibles to the extent available and estimated uncollectibles for that portion of 2002 for which actual data was not available, instead of using an annual estimate for 2002 uncollectibles based on its net uncollectibles for 2000 and 2001; and (2) WEC should have multiplied its base uncollectibles number by this year's EEC percentage for its service territory, rather than the year 2003 EEC rate.<sup>40</sup> I am persuaded by the DPS's position on these points. First, in previous years, actual figures for uncollectibles were used to the extent they were available,<sup>41</sup> and it is appropriate to continue this practice. There is no reason to estimate uncollectibles for the entire year when they are known for a portion of the year. Second, year 2002 EEC uncollectibles should be calculated using the rate in effect during year 2002, not the rate that will be in effect next year.

Therefore, I recommend that the Board approve the EEC rates for WEC shown in finding 12, above, with the caveat that they still must be adjusted in accordance with Paragraphs 11 and 12 of the Stipulation. In other words, I recommend that the Board acknowledge the rates in finding 12, above, are the result of the first four steps in the Stipulation's proposed calculation methodology, but that the fifth step in that methodology still needs to be performed. I also recommend that the Board require WEC to file, on or before November 8, 2002, (1) revised 2002 EEC uncollectibles, using actual 2002 uncollectibles to the extent available and estimated uncollectibles for the remaining portion of 2002, and (2) revised EEC rates that are adjusted in accordance with Paragraphs 11 and 12 of the Stipulation and that use the revised 2002 EEC uncollectibles figures. Finally, I recommend that the Board require any party that wishes to comment on WEC's filing do so before November 15, 2002.

#### Proposed Calculation Methodology for CVPS

In accordance with the CVPS-DPS bilateral agreement concerning the methodology for billing the EEC in the year 2003, CVPS has made two filings that included proposed percentage surcharges. The first filing, exh. CVPS-1, included preliminary proposed percentage surcharges, all of which, except for the surcharges for street and security lighting, the DPS found to be in

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40. Exh. DPS-5 at 3-4.

41. Tr. 9/26/02 at 26 (Welch).

compliance with the CVPS-DPS bilateral agreement concerning the methodology for billing the EEC in the year 2003, provided that CVPS appropriately adjusted the percentages to account for adjustments for EEC over- and under-collections, and utility EEC uncollectible amounts.<sup>42</sup> The second filing, exh. CVPS-4, included revised percentage surcharges to reflect these adjustments. I find all the revised percentage rates, except for those for street and security lighting to be reasonable, and recommend that the Board approve them.

With respect to CVPS's proposed percentage charges for street and security lighting, the DPS asserts that CVPS has not provided sufficient information regarding how its alternate street and security lighting proposal is structured and calculated, and that because of the tight deadlines in this docket (necessitated by the length of time some utilities needed to modify their billing systems to accommodate the new methodology), the DPS has been unable to obtain additional information as of the date of its required filing.<sup>43</sup> I accept the DPS's recommendation regarding how to proceed given its desire for additional information, and I recommend that the Board: (1) approve CVPS's proposed street lighting percentage rate, with the condition that CVPS provide additional information showing how that rate is structured and calculated by November 8, 2002; and (2) require any party that wishes to comment on this information do so by November 15, 2002. I also recommend that the Board explicitly state that, after considering CVPS's compliance filing and any comments filed by other parties on this issue, it may modify the street lighting percentage rates approved for CVPS in this Order.

#### Additional Implementation Issues

There are several additional issues associated with the implementation of the proposed calculation methodology for 2003 that deserve some discussion. These include: (1) how the EEC will be calculated for security and streetlight customers with meters; (2) whether utilities that failed to provide timely information regarding a reconciliation of the year 2001 EEC uncollectibles per Paragraph 12 of the Stipulation or information regarding estimated year 2002 EEC uncollectibles per Paragraph 11 of the Stipulation have foregone the opportunity to seek

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42. Exh. DPS-5 at 4.

43. Exh. DPS-5 at 4.



such reconciliation and/or recovery; and (3) the means of notifying customers of the year 2003 EEC rates. I will address each of these in turn.

First, some of the 14 Municipal Utilities use a meter on representative streetlights and then bill these lights on a per kWh basis under either a specific tariff or a commercial tariff. These utilities assert that, in this situation, the streetlights should be considered metered and should be billed the EEC using the non-demand billed commercial rate based on each month's meter readings.<sup>44</sup> The DPS does not object to this approach, provided that none of the affected customers is residential.<sup>45</sup> I find this approach to be reasonable. For streetlights that are billed on a per kWh basis, it is appropriate to also calculate the EEC for those streetlights on a kWh basis. Therefore, I recommend that the Board approve this approach.

Second, the DPS points out in its October 16, 2002, filing, that GMP and 13 of the 14 Municipal Utilities (all except for Morrisville) did not provide timely information regarding a reconciliation of the year 2001 EEC uncollectibles per Paragraph 12 of the Stipulation.<sup>46</sup> The DPS considers these utilities to have foregone the opportunity to seek such reconciliation.<sup>47</sup> I concur. The utilities were all notified at the technical hearing on September 26, 2002, that the filing deadline for such information was October 9, 2002; none of the utilities requested an extension of time prior to the filing deadline. It is necessary to have the information regarding any necessary reconciliations prior to the setting of the EEC for 2003, since the amount of any reconciliations affects the total amount to be collected via the EEC in 2003, and therefore, the specific EEC rates to be charged. In this Proposal for Decision, I recommend that the Board set the EEC for 2003 based on the information provided by the utilities as of the filing deadline, and affirmatively state that any utility that did not provide timely information as required may no longer seek such reconciliation.

For similar reasons, I recommend that the Board also state that any utility that did not provide timely information regarding estimated year 2002 uncollectibles may no longer seek recovery of those amounts. As in the case of the year 2001 uncollectibles reconciliation, the

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44. Exh. 14 Municipal Utilities-1 at 2.

45. Exh. DPS-5 at 5.

46. Exh. DPS-5 at 2.

47. Exh. DPS-5 at 2.

amount of any estimated year 2002 uncollectibles affects the total amount to be collected via the EEC in 2003 and, therefore, the specific EEC rates to be charged. The utilities were all notified at the technical hearing on September 26, 2002, that the filing deadline for such information was October 9, 2002, and none of the utilities requested an extension of time prior to the filing deadline. However, on October 18, 2002, VEC filed estimated year 2002 uncollectibles<sup>48</sup>. This request was not timely and was not incorporated into the year 2003 EEC rates included in exh. DPS-5 (which was filed on October 16, 2002). Therefore, I recommend that the Board state that VEC may no longer seek recovery of its estimated year 2002 uncollectibles.

There is a similar issue related to information provided by Morrisville regarding year 2001 uncollectibles. Specifically, according to the DPS, Morrisville did not seek any EEC uncollectibles for 2001 at the time the year 2002 EEC was set, but now seeks recovery of all 2001 EEC uncollectibles through the 2003 EEC.<sup>49</sup> The DPS asserts that the inclusion of these uncollectibles in the 2003 EEC would be inappropriate because the purpose of the reconciliation in Paragraph 12 of the Stipulation is to reconcile the estimated part of the Year 2001 uncollectibles calculation with the actual EEC uncollectibles for the period on which the estimate was based, not to make whole a utility that failed to seek year 2001 EEC uncollectibles at the appropriate time.<sup>50</sup> Applying the principle articulated above (that utilities that fail to provide information regarding uncollectibles by the required filing date can not request recovery of those uncollectibles at a later date), I find that Morrisville should not be allowed to recover its year 2001 EEC uncollectibles in the year 2003 EEC.<sup>51</sup> Accordingly, I recommend that the Board deny Morrisville's request for recovery of all of its year 2001 EEC uncollectibles in the year 2003 EEC.

Third, the Stipulation provides that customers should be notified of the year 2003 EEC rates through both a newspaper notice, published by the Board at the expense of the EEC, and

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48. Exh. VEC-1 at 1.

49. Exh. DPS-5 at 2.

50. Exh. DPS-5 at 2.

51. The DPS did not include the amount of year 2001 EEC uncollectibles in its year 2003 EEC rate calculations, so no adjustment needs to be made to the rates filed by the DPS to reflect this finding.

through a bill insert or newsletter (or some alternative form of notice if a distribution utility is unable to provide a bill insert or newsletter). This would be the first time that the Board has published newspaper notices at the expense of the EEC. I find it is acceptable for the EEC to share the costs of notifying customers (distribution utilities will still pay for bill inserts or newsletters). It is essential that customers understand what they are paying for energy efficiency services provided by the Energy Efficiency Utility. Newspaper ads that convey this information to customers are a legitimate expense related to the provision of energy efficiency services in multiple service territories. Therefore, I recommend that the Board plan to publish, at the expense of the EEC, a newspaper notice explaining the year 2003 EEC rates. In addition, I recommend that the Board require the DPS to file a draft newspaper notice with the Clerk of the Board on or before November 15, 2002. This draft notice should include, among other items, the explanation to be developed by the DPS and CVPS regarding CVPS's use of a different EEC calculation methodology.

The Stipulation provides that any bill inserts or newsletters or other means of notifying customers by distribution utilities must be "in such form as the Clerk of the Board approves." I recommend that the Board approve this requirement. In addition, I recommend that the Board require each distribution utility to submit a compliance filing to the Board that includes a copy of the notice as provided to customers, and proof of the date on which the notice was provided to customers. Timely customer notification is essential, and this filing requirement will help the Board verify that proper notification was provided to customers throughout the state.

#### Other Issues Addressed in the Stipulation

Two additional issues addressed in the Stipulation deserve some discussion: (1) the treatment of "Uncommitted Funds" (as defined in the Stipulation); and (2) Paragraph 3 of the Stipulation. I will address each in turn.

First, the Stipulation defines "Uncommitted Funds"<sup>52</sup> as

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52. This term is defined for the first time in the Stipulation. The Memorandum of Understanding in Docket 5980 referred to "unspent funds" only.

the amount raised by the EEC which, as of a given date, exceeds the amount which the EEU has spent plus the amount which it has not spent but is obligated to pay. The term excludes amounts raised by the EEC which are, as of that given date, encumbered under the Customer Credit Program or are necessary to pay obligations relating to DPS evaluation activities, the Contract Administrator, and the Fiscal Agent.<sup>53</sup>

At the technical hearing, the parties clarified that, as a legal matter, the definition for Uncommitted Funds should be interpreted to also exclude amounts collected, but not yet paid, for gross revenue and weatherization taxes.<sup>54</sup> No party disagreed with this interpretation. I recommend that the Board approve this clarification.

The Stipulation also provides that if Uncommitted Funds as of December 31, 2002, or December 31, 2005, are greater than five percent of the authorized Core Program Budget (as defined in the Stipulation), such amount should be applied as a credit against the year 2004 or year 2007 EEC, respectively. If, on the other hand, Uncommitted Funds are less than five percent of the authorized Core Program Budget, the Board should determine the disposition of the amount.<sup>55</sup> This is a change from the current situation in which the Board has discretion to determine the disposition of any amount of unspent funds collected via the EEC. However, I find it to be a helpful clarification. First, these provisions shift the focus from "unspent funds" to Uncommitted Funds. This distinction is significant because the Energy Efficiency Utility incurs obligations to pay some costs substantially before the costs are actually paid (for example, the Energy Efficiency Utility incurs an obligation to pay an incentive payment to a customer participating in the Business New Construction initiative well before construction is completed and the payment to the customer is made), and because some other types of expenses charged to the EEC fund are "lumpy" (such as costs associated with the DPS's evaluation activities). In general, focusing on Uncommitted Funds rather than unspent funds will enable the Board to more efficiently manage the energy efficiency utility program. Second, these provisions implicitly recognize that the Board's performance-based contract with the entity serving as the

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53. Exh. DPS-1 at ¶ 1q.

54. Tr. 9/26/02 at 49-51(Adler); tr. 9/26/02 at 51 (Silver); tr. 9/26/02 at 51-52 (Lewis); tr. 9/26/02 at 52 (Martin); tr. 9/26/02 at 52 (Reeve); tr. 9/26/02 at 52 (Powell); tr. 9/26/02 at 52 (Van Schwiebert); tr. 9/26/02 at 52 (Ellis); and tr. 9/26/02 at 52 (Podd).

55. DPS-1 at ¶¶ 13, 14.

Energy Efficiency Utility lasts for three years. If the Board were to change the amount of funds available to the contractor in the middle of the contract, it would be necessary to readjust the performance goals incorporated into the contract. However, at the end of a three-year contract (that is, at the end of 2002 and 2005), it is possible (and, I find, desirable) to make adjustments to a future EEC if the balance of Uncommitted Funds is too large. Finally, these provisions recognize the difficulty of exactly matching actual expenditures and commitments to budgeted expenditures and commitments. Managing a multi-year, multi-million dollar contract to the penny is virtually impossible. Including a five percent threshold provides appropriate flexibility. In sum, I find that the provisions relating to the disposition of Uncommitted Funds will provide the Board with an improved ability to manage the funding of the EEU program effectively and efficiently, despite the fact that they do restrict the Board's options in some areas. I recommend that the Board approve these provisions of the Stipulation.

The second additional issue raised in the Stipulation is included in Paragraph 3. Paragraph 3 recognizes that the parties in this docket disagree on whether the Core Program Budget amount for 2003 of \$16,172,252 complies with the second sentence of Paragraph 46 of the Memorandum of Understanding in Docket 5980.<sup>56</sup> Paragraph 3 also states that any party that signs the Stipulation waives the ability to challenge the application of Paragraph 46 of that Memorandum of Understanding to the Core Program Budget amount for 2003 and the resulting EEC for 2003 calculated in accordance with the Stipulation.

The issue of whether the Core Program Budget amount for 2003 complies with the Docket 5980 Memorandum of Understanding is not before me in this Docket. In fact, the Board explicitly stated in its Order opening this investigation that its decision regarding the amount to be collected via the EEC in 2003 would not be revisited in this Docket.<sup>57</sup> Nevertheless, the issue

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56. The Docket 5980 Memorandum of Understanding was approved by the Board in its 9/30/99 Order in that docket. The second sentence of Paragraph 46 of the Docket 5980 Memorandum of Understanding states:

The Parties agree that at no time during the five-year period commencing January 1, 2000 should the [distribution utility] customer contribution to the [Energy Efficiency Utility] for the Core Programs exceed the equivalent of 2.9 mills/kWh on total statewide retail sales.

The parties' specific disagreement is over the appropriate figure for "total statewide retail sales." Some parties contend that the correct figure is lower than the one used in the original analysis, and therefore the Board-approved Core Program Budget amount for 2003 is too high.

57. Order of 8/1/02 at 2.

is addressed in the Stipulation, and I recommend that the Board approve the Stipulation in its entirety, including Paragraph 3.

It is important to note, however, that Paragraph 3 is not part of the calculation methodology included in the Stipulation. In fact the DPS explicitly stated that while the Stipulation constitutes the DPS's proposal for those distribution utilities who did not sign the Stipulation, it was not asking the Board to impose the waiver in Paragraph 3 of the Stipulation on any party that did not voluntarily assent to it.<sup>58</sup> The 14 Municipal Utilities cited this paragraph as one reason they were unwilling to sign the Stipulation. They argued that no utility should be required to waive its right to raise issues associated with whether the Core Program Budget complies with the Docket 5980 Memorandum of Understanding in order to resolve the issues in this proceeding.<sup>59</sup> There is no dispute regarding whether Paragraph 3 should be applied to parties who did not sign the Stipulation, and I recommend that the Board explicitly state that while it is applying the calculation methodology and all related terms of the Stipulation to the service territories of the distribution utilities that did not sign the Stipulation, it is not imposing the waiver in Paragraph 3 on non-signatories.

## **V. CONCLUSION**

In conclusion, I find that the methodology to calculate the EEC included in the Stipulation and the associated bilateral agreements is appropriate, and I recommend that the Board approve the Stipulation and associated bilateral agreements in their entirety. I also recommend that the Board apply the same methodology to calculate the EEC in the service territories of the utilities that did not sign the settlement, although I recommend that the Board not impose Paragraph 3 of the Stipulation on non-signatories. I recommend that the Board allow the nine utilities whose billing systems are unable to accommodate the number of decimal places

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58. Letter from Aaron Adler, Special Counsel, DPS, to Susan M. Hudson, Clerk, Public Service Board, dated September 25, 2002, at 1. This is the cover letter that accompanied the Stipulation when it was filed with the Board.

59. Letter from Trevor R. Lewis, Esq., Law Offices of Primmer & Piper, representing the 14 Municipal Utilities, to Susan M. Hudson, Clerk, Public Service Board, dated September 25, 2002, at 1.

shown for the energy component of the EEC in the Stipulation to round that component to the maximum number of decimal places that their billing systems will accommodate.

I also recommend that the Board:

- Approve the Year 2003 EEC rates for all distribution utility service territories except for BED, WEC, and CVPS shown in finding 6, above;
- Approve the Year 2003 EEC rates for BED shown in finding 10, above, with the condition that, if the Board determines that BED's total program costs for 2003 should be a figure other than that agreed to by the DPS and BED in this Docket, the EEC rates will be recalculated using the methodology included in the Stipulation and this revised budget figure;
- Approve BED's proposed methodology for calculating the Year 2003 EEC for its security and streetlight customers;
- Approve the Year 2003 EEC rates for WEC shown in finding 12, above, with the caveat that they still must be adjusted in accordance with Paragraphs 11 and 12 of the Stipulation;
- Require WEC to file, on or before November 8, 2002, (a) revised 2002 EEC uncollectibles, using actual 2002 uncollectibles to the extent available and estimated uncollectibles for the remaining portion of 2002, and using the EEC rate in effect during year 2002, and (b) revised EEC rates that are adjusted in accordance with Paragraphs 11 and 12 of the Stipulation and that use the revised 2002 EEC uncollectibles figures;
- Require any party that wishes to comment on WEC's filing do so on or before November 15, 2002;
- Approve the Year 2003 EEC rates for CVPS shown in finding 19, above, except that the approval of the EEC rates for security and streetlight customers is conditioned upon the provision of additional information by CVPS by November 8, 2002, showing how those rates are structured and calculated;
- Require any party that wishes to comment on CVPS's filing do so on or before November 15, 2002;
- State that after considering CVPS's compliance filing and any comments filed by other parties on this issue, the Board may modify the street lighting percentage rates approved for CVPS in this Order;
- State that for streetlights that are billed on a per kWh basis, it is appropriate to also calculate the EEC for those streetlights on a kWh basis, specifically, using the non-demand billed commercial rate based on each month's meter readings, provided that none of the affected customers is residential;

- Set the EEC for 2003 based on the information provided by the utilities as of the filing deadline, and affirmatively state that any utility that did not provide timely information related to the reconciliation of Year 2001 EEC uncollectibles or the estimate of Year 2002 EEC uncollectibles as required in this Docket may no longer seek recovery of their costs associated with the item(s) for which the timely information was not provided;
- Deny VEC's request for recovery of estimated 2002 uncollectibles in the Year 2003 EEC;
- Deny Morrisville's request for recovery of all of its Year 2001 EEC uncollectibles in the Year 2003 EEC;
- Require the DPS to file, on or before November 15, 2002, a draft newspaper notice regarding the Year 2003 EEC rates throughout the state including, among other items, the explanation to be developed by the DPS and CVPS regarding CVPS's use of a different EEC calculation methodology;
- Require each distribution utility to submit a compliance filing to the Board that includes a copy of the notice it provided to customers and proof of the date on which the notice was provided to customers; and
- Clarify that the defined term "Uncommitted Funds" should be interpreted to also exclude amounts collected, but not yet paid, for gross revenue and weatherization taxes.

This Proposal for Decision pursuant to 3 V.S.A. § 811 has been served upon the parties to this case.

Dated at Montpelier, Vermont, this 29<sup>th</sup> day of October, 2002.

s/Ann Bishop

Ann C. Bishop  
Hearing Officer



## **VI. BOARD DISCUSSION**

The Energy Efficiency Charge supports the delivery of energy efficiency services throughout Vermont. These energy efficiency services benefit Vermonters in two ways. First, they lower the electric bills of the individual customers who have energy efficiency measures installed on their premises. More importantly, the energy efficiency services lower costs for *all* Vermont electric customers by reducing the electric utilities' *total* system costs. Specifically, the energy efficiency services funded by the EEC enable electric utilities to avoid buying more expensive power from wholesale markets, thereby reducing the costs utilities must recover from customers through rates. Since these energy efficiency services cost less per kWh than electricity costs to purchase on the New England wholesale market, the total amount paid by Vermont ratepayers (utility costs plus the EEC) is less than it would be in the absence of the energy efficiency services.

### **Changes to Proposed Calculation Methodologies in Response to Public Comments**

The methodology for calculating the year 2003 EEC that we approve in this Order results in business and other non-residential customers paying 56 percent of the total amount collected via the EEC in 2003, even though they use 62 percent of Vermont's electricity. By contrast, under this methodology, residential customers will pay 44 percent of the total amount collected via the EEC in 2003, even though they only use 38 percent of Vermont's electricity. Under this methodology, the proportions paid by both business and residential customers are the same for the year 2003 as they were in the year 2002.<sup>60</sup>

This differs from the DPS's original proposed calculation methodology for the year 2003 EEC, which would have significantly increased the proportion of the total amount collected via the EEC in 2003 paid by businesses and other non-residential customers as compared with 2002.<sup>61</sup> After hearing the DPS describe this methodology at the public hearing, three major industrial ratepayers expressed concern with any calculation methodology that would increase the amount of the EEC that they would have to pay. In addition, following the public hearing, the

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60. Tr. 9/26/02 at 37-38 (Welch).

61. Tr. 9/26/02 at 36-38 (Welch).

Board received numerous letters and e-mail messages from customers who opposed the establishment of a methodology which would result in businesses and other non-residential customers paying a larger share of the total amount collected via the EEC in 2003 than they did in 2002.

After receiving these comments from ratepayers, the DPS changed its proposed methodology to address these concerns. Specifically, the DPS reduced the portion of the total amount to be collected via the EEC in 2003 that would be paid by businesses and other non-residential customers to the same as in 2002.

This *is* exactly how the public comment process should work. The Board seeks to ensure that members of the public have an opportunity to comment on the issues in a docket, and that the parties in the docket address the issues raised by members of the public. The DPS, as the state's consumer advocate, should give serious consideration to comments from the public when determining its final position on an issue. In this case, the Board held a public hearing and received written comments. After receiving public comments from non-residential customers, the DPS modified its position based on those comments.<sup>62</sup> This modified position is embodied in the Stipulation before us, and is the basis for the year 2003 EEC rates that we approve today.

#### Parties' Comments on the Proposal for Decision

On October 28, 2002, the DPS, CVPS, and VEC filed comments on the Hearing Officer's Proposal for Decision.<sup>63</sup> The comments addressed the following issues: (1) CVPS's alternate street and security lighting proposal; (2) the Hearing Officer's recommendation that the DPS be required to file a draft newspaper notice regarding the 2003 EEC rates throughout the state; (3) the Hearing Officer's characterization of the reason the EEC rates paid by customers of BED and WEC would be different from those paid by customers of other utilities, if the Board accepted the Hearing Officer's recommendations; and (4) whether utilities that did not provide

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62. Tr. 9/26/02 at 36 (Welch).

63. Also on October 28, 2002, Vermont Marble filed a letter stating that it did not have any comments on the Proposal for Decision.

information regarding a reconciliation of the year 2001 EEC uncollectibles or estimated year 2002 EEC uncollectibles should still be eligible to seek recovery of those amounts.

As to the first issue, the Proposal for Decision included a recommendation originally advocated by the DPS regarding the 2003 EEC rates for CVPS's security and streetlight customers. Specifically, the Proposal for Decision recommended that the Board approve the proposed 2003 EEC rates for these customers, with the condition that CVPS provide additional information showing how those rates are structured and calculated. The Proposal for Decision also recommended that the Board (1) provide other parties an opportunity to comment on this filing; and (2) state that, after considering CVPS's filing and any comments on that filing, the Board may modify the rates approved for CVPS's security and streetlight customers in this Order.

Both CVPS and the DPS, in their comments on the Proposal for Decision, explained that CVPS has already provided this additional information to the DPS, and that the DPS is now able to agree to CVPS's proposed 2003 EEC rates for security and streetlight customers. Accordingly, the DPS asked for permission to withdraw its previous recommendation on CVPS's lighting surcharge proposal because it believes the additional filing is now unnecessary. We appreciate the initiative shown by CVPS and the DPS to resolve this issue and we accept their present agreement. Therefore, we will not require CVPS to make a compliance filing regarding the 2003 EEC rates for security and streetlight customers.

Second, the Proposal for Decision recommended that the Board require the DPS to file a draft newspaper notice explaining the 2003 EEC rates throughout the state with the Clerk of the Board on or before November 15, 2002. In its comments on the Proposal for Decision, the DPS stated that it was willing to file such a draft notice by that date, but that the Board did not have the authority to require the DPS to make such a filing. In light of the DPS's agreement to provide such a notice, we need not decide the scope of the Board's authority. We expect that the draft notice which the DPS provides will include, among other items, the explanation to be developed by the DPS and CVPS regarding CVPS's use of a different EEC calculation methodology, as recommended by the Hearing Officer.

Third, the DPS disagreed with the Hearing Officer's characterization, in the last paragraph of the introduction to the Proposal for Decision, of the reason the 2003 EEC rates paid by

customers of BED and WEC would be different from those paid by customers of other utilities, if the Board accepted the Hearing Officer's recommendations. Specifically, the DPS asserted that the reason given applied to BED, but not to WEC. The DPS suggested that the Hearing Officer replace the phrase "because they would be designed to raise the specific amount of revenue to be collected from each utility's customers in 2003" at the end of the second sentence in that paragraph with the phrase "in accordance with the Board's memorandum of August 1, 2002, described in Section II, below." We agree with the DPS and accept the fact that the Hearing Officer has made this change to the Proposal for Decision.

Fourth, the Proposal for Decision recommended that the Board state that any utility that did not provide information regarding a reconciliation of the year 2001 EEC uncollectibles or estimated year 2002 EEC uncollectibles should no longer be eligible to seek recovery of those amounts. It also recommended that the Board specifically state that VEC is no longer eligible to recover its estimated 2002 EEC uncollectibles in the 2003 EEC. VEC disagreed with this recommendation. VEC argued that the Stipulation does not require a distribution utility to file an estimate to be eligible to seek reimbursement for uncollectible amounts relating to the year 2002 EEC, and asserted that it "should be allowed on or before February 20, 2003, to submit to the Fiscal Agent an invoice for the total EEC uncollectible amount for its territory in 2002 as stated in 11 c. of the Stipulation."<sup>64</sup> The DPS responded that the deadline for the submission of uncollectibles information was set by the Hearing Officer at the technical hearing, not in the Stipulation, and that all distribution utilities (including VEC) had two weeks following the technical hearing to submit this information. The DPS argued that all utilities (including VEC) should be held to the deadlines for the submission of information set in this docket, and that if a utility failed to take advantage of the opportunity to submit information related to its EEC uncollectible amounts, it should be held to have foregone that opportunity.

We agree with the Hearing Officer's recommendation on this issue. That is, we agree that utilities that failed to submit a reconciliation of their 2001 EEC uncollectibles or an estimate of their year 2002 EEC uncollectibles as required by the schedule in this docket should no longer be

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64. Letter from Linda A. Reeve, Rate Analyst, Vermont Electric Cooperative, Inc., to Susan M. Hudson, Clerk, Public Service Board, dated October 25, 2002, at 1.

eligible to seek recovery of these amounts. VEC is correct that the Stipulation does not specify a date by which the information was to be provided. Nevertheless, it was necessary for the Hearing Officer to establish such a deadline in order to determine the EEC rate, and the length of time allowed the utilities to provide the information (two weeks) was reasonable (indeed, it was not objected to, no extension was requested, and it was met by many other utilities). The EEC rates for 2003 that we approve in this Order were calculated based on the information that was provided by the deadline. It would be inappropriate to allow utilities that did not submit the information to still seek recovery of EEC uncollectible amounts because those amounts were not included in the calculations performed to determine the EEC rates approved in this Order.

Having established this general principle, we turn to VEC's specific request. The deadline established by the Hearing Officer for the provision of information related to estimated year 2002 EEC uncollectibles was October 9, 2002. VEC did not submit an estimate of its year 2002 EEC uncollectibles by that date, nor did it request an extension of time before that date. As a result, VEC's estimated year 2002 EEC uncollectibles<sup>65</sup> are not included in the EEC rates for 2003 that we approve in this Order, and it would be inappropriate to allow VEC to still seek recovery of those amounts.

The DPS's comments also addressed a similar issue for Morrisville and its year 2001 EEC uncollectibles. Specifically, the DPS supported the Hearing Officer's recommendation that the Board deny Morrisville's request for recovery of all of its year 2001 EEC uncollectibles<sup>66</sup> in the year 2003 EEC, reiterating the DPS's arguments described by the Hearing Officer on page 26 of the Proposal for Decision. Morrisville did not file any comments on the Proposal for Decision. We conclude that it is appropriate to apply the general principle articulated above to Morrisville in this situation: Morrisville did not provide information regarding its year 2001 uncollectibles at

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65. In exh. VEC-1, VEC stated that through September, 2002, it has written off approximately \$359 of EEC uncollectibles. It estimated that the total 2002 write-off will be \$1,000.

66. According to exh. 14 Municipal Utilities-1, Morrisville's 2001 uncollectibles were \$10,697. However, the fraction of those related to the EEC would be quite small. For comparison purposes, in the same exhibit Morrisville estimated that its total year 2002 uncollectibles would be \$20,697, but that only \$542 of those were related to the EEC.

the appropriate time (when the year 2002 EEC was set); therefore, it should not be eligible to request recovery of those uncollectibles in the year 2003 EEC.

### Public Comments on the Proposal for Decision

On October 25, 2002, the Board received a letter from Associated Industries of Vermont ("AIV") regarding the Proposal for Decision. In that letter, AIV opposed the calculation methodology recommended by the Hearing Officer and expressed concern with both the total amount to be collected via the EEC in the year 2003, and the process used by the Board to establish that amount. AIV requested oral argument, but because AIV is not a party to this docket, we deny that request. In addition, we note that the total amount to be collected via the EEC in 2003 was originally established by the Board in Docket 5980 (a docket to which AIV *was* a party), and was modified by less than 1.5 percent, using exactly the process required by the terms of the Memorandum of Understanding approved by the Board in that docket.<sup>67</sup>

### Decimal Places

Finally, upon review of the record in this docket, we have noticed that, on October 15, 2002, the 14 Municipal Utilities filed a letter correcting the information in exhibit 14 Municipal Utilities-1 regarding the number of decimal places the 14 Municipal Utilities' billing systems can accommodate for the EEC. This filing was not noted in the Hearing Officer's Proposal for Decision, nor did any party comment upon the omission. However, the information in the October 15, 2002, filing should be part of the record in this case, and we admit it into evidence as exhibit 14 Municipal Utilities-2. Any party wishing to object to this admission must do so as part of a request to reconsider this Order.

The corrected information in exh. 14 Municipal Utilities-2 does not change the principle behind the Hearing Officer's recommendation that the Board allow the nine utilities whose billing systems are unable to accommodate the number of decimal places shown for the energy component of the EEC in the Stipulation to round that component to the maximum number of

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67. Docket 5980, Order of 9/30/99 at 11-12, A-12.

decimal places that their billing systems will accommodate.<sup>68</sup> However, the corrected information reduces the number of utilities whose utilities cannot accommodate the required number of decimal places for the energy component to six: Barton, Enosburg Falls, Hardwick, Ludlow, Northfield, and Stowe. Therefore, we accept the Hearing Officer's recommendation on this issue for only these six utilities.

In addition, the corrected information in exh. 14 Municipal Utilities-2 shows that seven utilities' (Barton, Hardwick, Lyndonville, Morrisville, Northfield, Stowe, and Swanton) billing systems are unable to accommodate the number of decimal places shown for the demand component of the EEC in the Stipulation. In the DPS's October 16, 2002, filing (admitted as exh. DPS-5), the DPS recommended that "utilities which have timely reported that they cannot accommodate the requisite number of decimal places on their bills be required to bill the EEC out to as many decimal places as their bills will accommodate."<sup>69</sup> We conclude that these seven utilities did timely report that their billing systems cannot accommodate the required number of decimal places, and accept the DPS's recommendation regarding these utilities. Specifically, we require that Barton, Hardwick, Lyndonville, Morrisville, Northfield, Stowe, and Swanton calculate the demand component of the EEC using as many decimal places as their billing systems can accommodate, and round the EEC when necessary, using standard rounding techniques.

The corrected information in exh. 14 Municipal Utilities-2 also affects finding 7 in the Proposal for Decision. Therefore, we hereby modify finding 7 as follows:

The billing systems of Barton, Enosburg Falls, Hardwick, Ludlow, Northfield, and Stowe cannot accommodate the number of decimal places for the energy component shown in finding 7, above. They should calculate the energy component of the EEC using as many decimal places as their billing systems can use. The billing systems of Barton, Hardwick, Lyndonville, Morrisville, Northfield, Stowe, and Swanton cannot accommodate the number of decimal

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68. This principle is consistent with that articulated by the Board in its 9/19/01 Order in Docket 6107. On pages 3-4 of that Order, the Board concluded that "reasonable rounding" of electricity prices is appropriate, and that in determining what constitutes "reasonable rounding," the Board was guided in part by the utility's past practices. It determined that the same number of decimal points used by the particular utility, and approved by the Board, in past rate cases constituted "reasonable rounding".

69. Exh. DPS-5 at 5.

places for the demand component shown in finding 7, above. They should calculate the demand component of the EEC using as many decimal places as their billing systems can use. Any rounding should be done by rounding numbers 1 through 4 down, and 5 through 9 up. Exh. 14 Municipal Utilities-2 at 5; exh. DPS-5 at 5.

## **VII. ORDER**

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that:

1. The findings and recommendations of the Hearing Officer are adopted, except as modified in the Board Discussion, above.
2. The Stipulation, the two bilateral agreements between Central Vermont Public Service Corporation ("CVPS") and the Vermont Department of Public Service ("DPS"), and the one bilateral agreement between Green Mountain Power Corporation and the DPS are approved in their entirety.
3. The Year 2003 Energy Efficiency Charge ("EEC") rates for all distribution utility service territories except for the City of Burlington Electric Department ("BED"), Washington Electric Cooperative, Inc. ("WEC"), and Central Vermont Public Service Corporation ("CVPS") shall be as shown in finding 6, above, except that (1) the six utilities whose billing systems are unable to accommodate the number of decimal points shown for the energy component of the EEC in the Stipulation (Barton Village, Inc. Electric Department, Village of Enosburg Falls Water & Light Department, Town of Hardwick Electric Department, Village of Ludlow Electric Light Department, Village of Northfield Electric Department, and Town of Stowe Electric Department) shall round that component to the lesser of (a) the same number of decimal points as other utilities; or (b) the maximum number of decimal places that their billing systems can accommodate; and (2) the seven utilities whose billing systems are unable to accommodate the number of decimal points shown for the demand component of the EEC in the Stipulation (Barton Village, Inc. Electric Department, Town of Hardwick Electric Department, Village of Lyndonville Electric Department, Village of Morrisville Water & Light Department, Village of Northfield Electric Department, Town of Stowe Electric Department, and Swanton Village, Inc. Electric Department) shall round that component to the lesser of (a) the same number of decimal



points as other utilities; or (b) the maximum number of decimal places that their billing systems can accommodate.

4. The Year 2003 EEC rates for BED's service territory shall be as shown in finding 10, above, except that if the Board subsequently determines that BED's total program costs for 2003 should be a figure other than that agreed to by the DPS and BED in this docket, BED's EEC rates shall be recalculated using the methodology included in the Stipulation and the revised budget figure.

5. BED's proposed methodology for calculating the Year 2003 EEC for its security and streetlight customers is approved.

6. The Year 2003 EEC rates for WEC's service territory shall be as shown in finding 12, above, except that they must be adjusted in accordance with Paragraphs 11 and 12 of the Stipulation.

7. On or before November 8, 2002, WEC shall file (a) revised 2002 uncollectibles, using actual 2002 uncollectibles to the extent available and estimated uncollectibles for the remaining portion of 2002, and using the EEC rate in effect during year 2002; and (b) revised EEC rates that are adjusted in accordance with Paragraphs 11 and 12 of the Stipulation and that use the revised 2002 EEC uncollectibles figures.

8. Any party wishing to comment on WEC's November 8, 2002, filing shall do so on or before November 15, 2002.

9. The Year 2003 EEC rates for CVPS's service territory shall be as shown in finding 19, above.

10. For security and streetlights that are billed on a per kWh basis, it shall be appropriate to also calculate the EEC for those streetlights on a kWh basis, using the non-demand billed commercial EEC rate based on each month's meter readings, provided that none of the affected customers is residential.

11. Any utility that did not provide timely information related to the reconciliation of Year 2001 EEC uncollectibles or the estimate of Year 2002 EEC uncollectibles as required in this docket shall no longer be eligible to seek recovery of their costs associated with the item(s) for which the timely information was not provided.

12. Vermont Electric Cooperative, Inc., shall not be eligible to recover its estimated Year 2002 uncollectibles in the Year 2003 EEC.

13. The Village of Morrisville Water & Light Department shall not be eligible to recover all its Year 2001 EEC uncollectibles in the Year 2003 EEC.

14. Each distribution utility shall submit a compliance filing, within ten (10) days of the date on which notice about the Year 2003 EEC is provided to customers, that includes a copy of the notice as provided to customers and proof of the date on which the notice was provided to customers.

15. The term "Uncommitted Funds" as defined in the Stipulation shall also exclude amounts collected, but not yet paid, for gross revenue and weatherization taxes.

16. Paragraph 3 of the Stipulation shall not be imposed on any party that is not a signatory of the Stipulation.

17. This docket shall remain open for consideration of the required compliance filings.

Dated at Montpelier, Vermont, this 31<sup>st</sup> day of October, 2002.

s/Michael H. Dworkin )

) PUBLIC SERVICE

s/David C. Coen )

) BOARD

s/John D. Burke )

) OF VERMONT

OFFICE OF THE CLERK

FILED: October 31, 2002

ATTEST: s/Judith C. Whitney

Deputy Clerk of the Board

*NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: Clerk@psb.state.vt.us)*

*Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.*